CITY COUNCIL MEETING
PLANNING REPORT

Title Bylaw 6417 – Land Use Bylaw Amendment re: 2802 5 Avenue North

Meeting Date September 19, 2023

Submitted By Genesis Molesky, Community Planner

Presented By

Application Number LUB00257

Applicant Information The applicant is Braemore Management Ltd. on behalf of the property owner.

Summary

- The proposed Land Use Bylaw amendment would change the land use classification of PLAN 4310 AL BLOCK 6 THE WESTERLY 289 FEET AND 4 INCHES OF LOTS 1 AND 2 - (2802 5 Avenue North):

  From: DC (Direct Control) Existing

  To: DC (Direct Control) New

- The applicant wishes to eliminate the landscaping requirements for the property to provide building and site management flexibility and prevent negative financial impacts to the commercial tenants and their businesses.

- The proposed Direct Control district is based closely on the existing Direct Control Bylaw 6177 in that it carries forward the currently allowed Uses and most of the development requirements. Bylaw 6417 excludes the landscaping requirements, the site plan, and the landscaping plan found in Bylaw 6177.

Recommendation or Support Statement

2nd Reading:

BE IT RESOLVED THAT Bylaw 6417 – Land Use Bylaw Amendment re: 2808 5 Avenue North be given second reading.

3rd Reading:

BE IT RESOLVED THAT Bylaw 6417 – Land Use Bylaw Amendment re: 2808 5 Avenue North be given third reading and the Mayor and City Clerk be authorized to sign and seal the same.

Background

The subject parcel is located in the Anderson Industrial Park and is currently occupied by various commercial businesses. The surrounding properties are primarily designated as industrial districts except for the parcels to the north-west which are designated R-37 (Medium Density Residential).

In 2019, City Council passed Bylaw 6177 which introduced new commercial Uses, including Retail Cannabis Store. This Bylaw also included site and landscaping plans to regulate parking, setbacks, and landscaping requirements.

Application Analysis

The applicant is seeking flexibility in the development requirements to be adaptable to operational needs and better support the existing commercial tenants. The site plan found in the existing Bylaw 6177 restricts any future site reconfiguration and the landscaping plan requires a particular landscaping design that the applicant has expressed would have a negative financial impact on the commercial tenants.

Bylaw 6417 carries forward the currently allowed commercial uses and most of the development requirements excluding the landscaping requirements, the site plan, and the landscaping plan found in Bylaw 6177. The exclusion of the site and landscaping plans will allow the applicant more flexibility for future changes to the site.

Bylaw 6417 will continue to allow a range of commercial and light industrial Uses and include development requirements suitable for the existing building as well as any future site configurations. The exclusion of the site and landscaping plans is reflected in section 6 of the proposed Bylaw 6417. Section 6 states that landscaping requirements do not apply to this site and it provides written descriptions of the Setbacks, Garbage Enclosures and Storage Areas, and Parking, whereas Bylaw 6177 regulates these through the site and landscaping plans. Additionally, the minimum parking requirement is proposed to be lowered from 55 to 50 parking spaces to allow the operation of a permanent patio in the parking lot. As the patio is located in the parking lot on top of previously used parking spaces, it would still require a development permit but not a waiver of the required parking spaces for the Entertainment Establishment (Honkers Pub and Grill).

The proposed amendment has been reviewed by City staff and concerns have been identified with the removal of requirements for landscaping. This is not in keeping with

other businesses in the area. Staff are of the professional opinion that a requirement for xeriscaping would be more appropriate to ensure the property is well-maintained. Without the requirement for xeriscaping, staff is not supportive of Bylaw 6417.

Policy Considerations

The regional and local statutory documents listed below provide the following policy direction on this proposal:

South Saskatchewan Regional Plan
The proposed Land Use Bylaw amendment does not interfere with a key strategy found in the South Saskatchewan Regional Plan (SSRP):

- Strategy 5.1: "encouraged to consider the efficient use of land principles in land-use planning and decision-making"
- The efficient use of land refers to the ability to maximize the usability of property, primarily on serviced and developed land, to prevent outward sprawl. Bylaw 6417 allows development rules to change in particular landscaping rules which impact a property's aesthetics and biodiversity, while retaining the currently allowed extensive list of Uses that ensure this site is able to accommodate a range of business for years to come.

Municipal Development Plan
In terms of city-wide policy, the Municipal Development Plan includes the following relevant policies.
The proposed amendment does not align with policy 112:

- Policy 112: "ENSURE landscaping of public facilities and commercial, industrial and high-density residential developments contribute to sustainable development"
- Bylaw 6417 eliminates the landscaping requirements altogether which removes the requirement to contribute to this policy.

However, the proposed amendment does align with the policy 46:

- Policy 46: "SUPPORT changing retail and commercial development trends that serve the needs of the City by investigating and considering the need for any amendments to the City's statutory documents"
- Bylaw 6417 decreases the regulatory oversight for the site in question which is a growing trend in the planning field.

In addition, the Land Use Bylaw 6300 (LUB 6300), provides guidance on landscaping design elements appropriate for commercial buildings which Bylaw 6417 excludes. The landscaping guidance found in LUB 6300 considers the impact that landscaping has on a property's visual appeal. The landscaping requirements and guidelines found in LUB 6300 ensure that the aesthetics of a property are maintained for years to come. Eliminating landscaping guidelines compromises the property's future visual appeal. The existing landscaping requirements for this site, which the applicant wishes to eliminate, align with the LUB 6300 based on the range of commercial Uses allowed at this location.

Community Consultations

In May 2023, the applicant hosted an open house event. In total, five people attended all in support of this proposal. The applicant provided the rationale for this application, and City staff provided information about the process. The attendees advocated for the applicant to be able to decide on landscaping changes based on the feedback of commercial tenants not the requirements of the existing Bylaw. The landowner of one of the residential properties to the north-west of this site was in support of eliminating landscaping requirements as well.

Direct notifications for the initiation of this rezoning were sent to twenty-eight property owners within a 60-metre radius of the site. No responses have been received at the time of writing this report.

In line with the City of Lethbridge's Land Use Bylaw amendment procedures, additional communication through newspaper advertisements, a notification on the City's website and direct notification to nearby property owners advertising the public hearing date will occur after first reading of this bylaw and prior to the public hearing.

Decision Options

- At First Reading:
  1. Approve First Reading of Bylaw 6417.

- At the Public Hearing:
  1. Hold and Close the Public Hearing for Bylaw 6417; or
  2. Recess the Public Hearing for Bylaw 6417; to a Future Meeting to gather more information, or for further consideration. *This may require re-advertising. A date for reconvening of the meeting should be determined at the time of the recess to facilitate re-advertising. (This is contemplated during or after the Public hearing before the Public hearing is declared Closed)*

- At Second and Third Reading:
  1. Postponement of the Second and Third Reading for Bylaw 6417 until a future City Council meeting. This does not require re-advertising; or
  2. Provide Second and Third Reading to Bylaw 6417 as presented (i.e. Approve the Bylaw); or
  3. Provide Second and Third Reading to Bylaw 6417 as amended. (i.e. Approve the Bylaw with changes) (*Note: Any change to the bylaw, may require re-advertising for an additional Public Hearing); or*
  4. Defeat or Refuse Bylaw 6417 as presented. *When a Bylaw for a land use district change or a change to the text of the Land Use Bylaw is defeated by City Council, another application for the same land use district change for the same parcel or the same text change may not be submitted by the same or another applicant until 6 months have elapsed from the date of the City Council's decision unless the application has been sufficiently modified to constitute a new application.*

Attachment(s)

1. Bylaw 6417

Link(s)

1. Bylaw 6177
2. South Saskatchewan Regional Plan
3. Municipal Development Plan
4. Land Use Bylaw 6300

Approvals	
Department Director:	Joel Sanchez
City Manager:	Lloyd Brierley